

REMARKS/ARGUMENTS

This paper is in response to the first Office Action, which was mailed June 18, 2004 with regard to the above-identified application. This response is being filed within the shortened statutory three-month time period set for response in the Office Action. No fee is believed to be due. However, if any fee is found to be due in connection with this response, authorization is provided to charge the fee to Deposit Account No. 50-0573.

Claims 1-26 are pending in the application. The claims have not been amended, and no new matter has been added.

Claim Rejections – 35 U.S.C. §102

Claims 1, 2 and 13-16 were rejected as allegedly anticipated by U.S. Pat. No. 6,536,089 (Komiya *et al.*, hereinafter “Komiya”). In order for a prior art reference to be anticipating, it must disclose each and every element set forth in the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131. Applicant respectfully traverses rejection of claims 1, 2, and 13-16, as Komiya does not disclose each and every element of the present claims.

Independent claim 1 is directed to an apparatus for performing high speed welding of materials and recites, *inter alia*:

... an outer vessel having an inner surface and a central axis;
at least one inner vessel positioned within the outer vessel and adapted to receive at least two objects to be subjected to a welding process;
means for rotating the inner vessel with respect to the outer vessel; (emphasis added) ...

Independent claim 13 is also directed to an apparatus for performing high speed welding of materials and recites, *inter alia*:

... an outer vessel having an inner surface and a central axis;
at least one inner vessel positioned within the outer vessel and adapted to receive at least two materials to be subjected to a welding process;

means for rotating the inner vessel with respect to the outer vessel (emphasis added);

Komiya discloses an insulated vessel having an inner vessel **joined in an integral fashion** to an outer vessel (column 4, lines 47-51, Embodiment 1; column 8, lines 34-36, Embodiment 2; column 10, lines 6 and 7, Embodiment 3; and column 10, lines 31-33, Embodiment 4) to form an air-tight space between the inner vessel and the outer vessel. The space is filled with a gas having a low thermal conductivity (see, for example, column 4, lines 52-55) to reduce conductive and convective heat transfer between the inner and outer vessels. A material having properties to reduce radiative heat transfer (*e.g.*, a metallic foil having surfaces with high reflectivity) is attached to the outer surface of the inner vessel (see, for example, column 5, lines 27-39).

Komiya does not disclose any means for rotating an inner vessel relative to an outer vessel, as is recited in both independent claims 1 and 13. Indeed, Komiya not only fails to disclose any means for rotating an inner vessel relative to an outer vessel, but in fact teaches an inner vessel **joined in an integral fashion** to an outer vessel. Consequently, Komiya clearly *teaches away* from providing any means for rotating the inner vessel relative to the outer vessel and, thus, the invention as claimed.

Because Komiya fails to disclose any means for rotating an inner vessel with respect to an outer vessel, as recited in claims 1 and 13, claims 1 and 13 are not anticipated by Komiya. Claim 2, which depends from claim 1, and claims 14-16, which depend from claim 13, are also not anticipated by Komiya at least by virtue of their dependency upon claims 1 and 13, respectively. As Komiya fails to disclose each and every element of claims 1, 2 and 13-16, Applicant respectfully submits that claims 1, 2 and 13-16 are not anticipated by Komiya, and requests that the rejection of these claims under 35 U.S.C. § 102(b) be withdrawn.

Allowable Subject Matter

Applicant acknowledges with appreciation that the Examiner has found that claims 21-26 are allowable, and that claims 3-12 and 17-20 would be allowable if rewritten in independent

Appl. No. 09/965,544
Reply to Office Action of June 18, 2004
Attorney Docket No. 9436-16 US (150009)

form. However, in view of the foregoing remarks, Applicant respectfully requests reconsideration of claims 3-12 and 17-20 in their dependent form.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the present application, including claims 1-26, is in condition for allowance, and such action is respectfully requested. If direct communication will expedite the allowance of the application, the Examiner is invited to telephone the undersigned attorney for Applicant.

Respectfully submitted,

STEVE E. HOFFMAN

BY 

ROBERT E. CANNUSCIO

Registration No. 36,469

DRINKER BIDDLE & REATH LLP

One Logan Square

18th and Cherry Streets

Philadelphia, PA 19103-6996

Telephone No. (215) 988-3303

Facsimile No. (215) 988-2757

Attorney for Applicant

REC/KBG/ibs